

# A Guide to WISHA

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The workplace safety  
and health program  
in Washington State



- ▶ Save lives
- ▶ Prevent injuries and illness
- ▶ Protect the safety and health of Washington workers



Department of  
**LABOR AND  
INDUSTRIES**



# ***Workplace Safety and Health Matters***

Newspaper accounts of workplace deaths often quote a company representative or family member who said, “it was a tragic and unfortunate accident” or “it was a freak accident.”

In reality, most workplace deaths, injuries and occupational diseases can be prevented. Too often, worker safety rules intended to prevent “accidents” have not been followed, and a worker suffers a painful and

sometimes disabling injury. Although Washington State has one of the lowest fatality rates in the United States, one or two workers dies here **each** week from work-related injury or illness.

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Prevention takes dedication and work. It is not something that can be accomplished as an afterthought – when there is a lull in production or during a staff meeting. It takes an ongoing commitment by employers, workers and the Washington Department of Labor and Industries (L&I).

*A Guide to WISHA* provides an overview of worker safety in Washington State. It outlines L&I’s responsibility – and services – to help employers and workers prevent injuries and illnesses, and save lives.



# Overview of WISHA

## What is WISHA?

WISHA is the Washington Industrial Safety and Health Act, Chapter 49.17 RCW, enacted in 1973 by the Washington State Legislature. The purpose of this law is to ensure that Washington's employers provide their workers with safe and healthy workplaces.

**WISHA covers nearly all employers and employees in Washington State, including state, county and city employees. Exceptions are federal agencies and workplaces on federal installations.**

“WISHA” is also Washington State’s workplace safety and health program administered by L&I. Washington and 24 other states administer their own workplace safety and health program.

The federal Occupational Safety and Health Administration (OSHA) enforces safety and health requirements in the remaining states, which do not operate as a “State Plan” state. OSHA monitors and partially funds the WISHA program.

## Where does WISHA apply?

WISHA covers nearly all employers and employees in Washington State, including state, county and city employees. Exceptions are federal agencies and workplaces on federal installations.

## What are employers’ responsibilities under WISHA?

Employers must provide a safe and healthy workplace and comply with applicable worker safety rules. Employers may want to read more on this subject on Page 13.

WISHA requires employers to keep job sites safe for all employees, whether they work for the employer, a contractor, a subcontractor or someone else. For more information, read *A Guide to Hiring Independent Contractors in Washington State* (F101-063-000). It is available online at [www.LNI.wa.gov/IPUB/101-063-000.pdf](http://www.LNI.wa.gov/IPUB/101-063-000.pdf).

## **What are workers' responsibilities under WISHA?**

Workers must comply with the worker safety rules that apply to their actions on the job. Workers may want to read more on this subject on Page 14.

## **What are L&I's responsibilities?**

The Washington Industrial Safety and Health Act gives L&I primary responsibility for overseeing worker safety and health in Washington State. L&I carries out this responsibility by:

- Implementing rules to reduce or eliminate workplace hazards.
- Providing education and training materials.
- Conducting on-site consultations to help employers identify and fix workplace hazards.
- Inspecting workplaces.



# ***Preventing Injuries: Help from L&I***

Prevention begins with Washington State's "safety and health core rules." These rules explain the minimum requirements for safe workplaces that employers must follow. They specifically address:

- Employer responsibilities for safe workplaces.
- Accident prevention program/safety committees.
- Personal protective equipment.
- Chemical hazard communication.

In addition to the core rules, other rules apply to specific industries – for example, noise control, confined space, forklift safety and respiratory protection.

**Consultations help employers recognize hazards and fix them before accidents occur.**

L&I offers a variety of services to help employers understand and comply with worker safety rules and lower workers' compensation costs.

## **Prevention Teams**

Specialists in local L&I offices can help employers identify steps to prevent injuries and recommend services from L&I.

## **Consultations**

Consultations help employers recognize hazards and fix them before accidents occur. A safety consultation focuses on physical hazards and procedures, such as machine guarding, fall protection or energy control (lockout/tagout). For health issues such as hazardous chemicals, noise control or confined space, an industrial hygienist will do the consultation.

An L&I consultant visits a business only at the employer's request. He or she will suggest ways to prevent injuries and

illnesses and review applicable rules. The consultant will not issue citations or fines. However, if he or she identifies a “serious” hazard, the employer must fix the problem.

For more information about consultations, visit [www.SafetyConsultants.LNI.wa.gov](http://www.SafetyConsultants.LNI.wa.gov) or call 1-800-423-7233 (4BE-SAFE) and request the brochure, *Could Your Company Use a WISHA Safety and Health Consultation?* (F417-209-000). You are welcome to call your local L&I office and ask to speak to the consultation supervisor.

## **Risk Management Consultations**

Risk Management Specialists help employers identify ways to reduce the cost of workers’ compensation claims and insurance premiums. To request an on-site consultation, call 360-902-5586.

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## **Workshops**

Labor and Industries presents workshops on topics such as accident prevention, machine safety, and OSHA 300 record keeping. L&I also offers workshops on managing workers’ comp claims costs. There is no fee to attend a workshop; however, participants should register in advance.

To learn more or to register:

- Visit [www.LNI.wa.gov/Safety/TrainTools/Workshops/](http://www.LNI.wa.gov/Safety/TrainTools/Workshops/)
- Call 1-800-574-2829
- Send a e-mail to [workshopsched@LNI.wa.gov](mailto:workshopsched@LNI.wa.gov)

## **Safety and Health Video Library**

The Safety and Health Video Library has nearly 1,000 titles available on a wide variety of safety and health topics. Complete descriptions are available on the web at [www.Videos.LNI.wa.gov](http://www.Videos.LNI.wa.gov). Videos can be a useful training tool

or help build awareness in safety committee meetings. They are available for loan to any Washington State resident. The only cost is return shipping using a traceable method. To learn more:

- Visit [www.Videos.LNI.wa.gov](http://www.Videos.LNI.wa.gov)
- Call 1-800-574-9881
- Send an e-mail to [SHVideo@LNI.wa.gov](mailto:SHVideo@LNI.wa.gov)

## Training Resources

These resources include online training modules for employees and trainer kits to prepare an employer or his/her safety representative to train employees on subjects such as ladder safety, noise exposure and safe forklift operation. Other resources are guidebooks, tip sheets and safety education posters. To learn more:

- Visit [www.LNI.wa.gov/Safety/TrainTools/](http://www.LNI.wa.gov/Safety/TrainTools/)
- Call 1-800-423-7233 (4BE-SAFE)

## Governor's Industrial Safety and Health Conference

The Governor's Industrial Safety and Health Advisory Board and L&I co-sponsor this annual two-day conference. Its purpose is to provide the latest tools, technologies and strategies for workplace safety and health. Sixteen industries hold sessions on topics specific to their industry. To learn more:



- Visit [www.LNI.wa.gov/Safety/TrainTools/GovConf/](http://www.LNI.wa.gov/Safety/TrainTools/GovConf/)
- Call 1-888-451-2004



# Compliance

By law, the WISHA program conducts compliance inspections in addition to providing consultations, education and training. Inspections help ensure that employers comply with worker safety rules.

**Inspections help ensure that employers comply with worker safety rules.**

## **What is the purpose of a WISHA inspection?**

A WISHA inspection helps an employer discover any unsafe or unhealthy conditions in the workplace and determines whether applicable minimum worker safety rules have been followed.

In a safety inspection, an inspector specializes in physical hazards or procedural problems, such as inadequate machine guards, stair railings or equipment lockout procedures.

A health inspector is an industrial hygienist. He or she specializes in chemical hazards, such as chemical vapors or asbestos fibers, and noise hazards that could endanger employees' health.

Safety inspectors and health inspectors may work together. For example, a safety inspector investigating conditions in a factory may notice a leak from a ventilating system and ask an industrial hygiene inspector to take samples.

## **When does L&I inspect workplaces?**

L&I conducts inspections in the following order of priority:

1. "Imminent danger" situations, where death or serious physical injury could happen immediately.
2. Workplace deaths and catastrophic incidents (defined as a situation where two or more workers require hospitalization).



3. Complaints and other reports of potentially hazardous conditions.
4. Follow-up or monitoring inspections.
5. Programmed inspections. Because L&I also administers the workers' compensation program in Washington State, the WISHA Services division can use workers' comp data to identify employers and industries that may not have addressed workplace hazards and/or complied with worker safety rules.

## **I'm an employer. What should I know about inspections?**

There are three parts to a WISHA inspection: the opening conference, the walk-around inspection and the closing conference.

### **Opening Conference**

When the inspector arrives at your work site, he or she will hold an opening conference to explain the reason for the inspection and outline its scope. The inspector will verify the legal name of your business, your UBI number, industrial insurance account number, how many employees you have and other general information.

Other documents the inspector will ask to see include your written accident prevention program, any other required safety programs and your injury and illness logs.

Employee representatives must be included in the opening conference, unless you or your employees' representatives request separate opening conferences. In such a case, both have the right to a written summary of the other's opening conference.

The opening conference also provides an opportunity to discuss your rights and responsibilities. They include:

- **Confidentiality.** The inspector is required to keep certain information confidential to protect your business. Trade secrets such as formulas, processes, patterns and blueprints will not be revealed, to the extent protected by law.

**Representation.** You or your representative and a representative authorized by your employees

- may accompany the inspector. The inspector will talk confidentially with some of your employees about safety and health conditions on the job site, especially if they do not have an authorized representative.
- **Participation.** By law, your employees must be allowed to participate in the inspection and must be paid for this time. They may not be fired, demoted or otherwise discriminated against if they talk with the inspector, file a complaint about an unsafe or unhealthy working condition, or exercise any other legal right.

## Walk-around Inspection

During the “walk-around” inspection, the inspector will look for any hazards that might endanger your employees, take notes and possibly photographs. For example, the inspector may look closely at the guards on machinery or take small samples of material for laboratory analysis. You have a right to accompany the inspector and ask questions about how to correct any problems discovered.

The inspector will also determine whether you have complied with state and federal record-keeping requirements and whether you have posted the necessary documents, including the *Job Safety and Health Protection Poster* (F416-081-909), that inform your employees of their rights under the law.

## Closing Conference

The inspector will discuss any hazards he or she discovered, ways to correct the hazards and deadlines for correcting them. You will also be told of any fines related to the safety violations and how you can appeal the findings of the inspection. The fines you pay will be deposited into the supplemental pension fund, which provides disability pensions and survivor benefits to injured workers and their families. The fines do not support the WISHA program.

**The inspector will discuss any hazards he or she discovered, ways to correct the hazards and deadlines for correcting them.**

During the closing conference, it is important that you provide any additional information that you want the inspector to consider before the inspection ends.

Employee representatives must be included in a joint closing conference. However, either the employer or employee representatives may request separate closing conferences.

## What happens after the inspection?

**You must correct hazards.** You will receive a “Citation and Notice of Assessment” (Citation and Notice) in the mail. It will include any violations the inspector found, what you must do to correct the hazards and how long you have to correct them. You need to:

- Immediately post a copy of the Citation and Notice where the violation(s) occurred. If that is not possible, you may post it on a central bulletin board where you employees can easily read it. The copy must remain posted until you correct all violations or for three days – whichever is longer.
- Correct all hazards within the time specified on the Citation and Notice.

- Complete and return the “Employer Certification of Abatement” form that came with the Citation and Notice, once you correct the hazards. In some cases, you may be asked to provide pictures of the corrected hazards.

**You may request an extension to correct hazards.** If you have made a sincere effort to correct problems in your workplace, but are unable to do so in time because of factors beyond your control, you may apply for an extension. You must make your request **before** the correction date deadline in the Citation and Notice.

To request an extension, write a letter to the address listed at the top of the “Employer Certification of Abatement” form. In your letter, state why the violations cannot be corrected by the specified date, how your employees will be protected in the meantime and when you will be able to correct the problem. Your employees have the right to appeal the length of time allowed to correct hazards.

**You may appeal the findings in the Citation and Notice.** You must make your appeal in writing within 15 working days from the date you received the Citation and Notice. Send your written appeal to the address listed on the Citation and Notice.

### **How does the appeal process work?**

L&I has the option to forward your appeal to the Board of Industrial Insurance Appeals, which is an independent agency, or to reassume jurisdiction and try to resolve the appeal informally.

If L&I reassumes jurisdiction, you will meet with an L&I hearings officer. This will be your opportunity to present relevant facts, opinions, information and questions. You are not required to have an attorney there. After the meeting, you will receive a document that explains L&I’s final decision. If you still disagree with the findings, you may further appeal to the Board of Industrial Insurance Appeals and, ultimately, the court system.

# ***Rule Making***

Worker safety rules outline employers' minimum requirements to provide a safe and healthy workplace. From time to time, it may be necessary to change rules, or implement new rules that address new hazards, respond to legislative action, or meet the requirements of other government agencies. For example, Washington State's worker safety rules must be "at least as effective" as OSHA rules. If OSHA changes a rule, Washington State must change its corresponding rule within six months.

**Before adoption, the public has the opportunity to review the proposed rule and comment at a public hearing.**

## **How does L&I create rules?**

L&I adopts, amends or repeals all permanent worker safety rules through a formal process that gives the public advance notice and an opportunity to comment. The Administrative Procedures Act (RCW 34.05) outlines the rule-making process.

## **How does L&I involve the public?**

Interested parties, such as labor and management organizations in an affected industry, may assist L&I in developing the wording of the rule. Before adoption, the public has the opportunity to review the proposed rule and comment at a public hearing. L&I publishes an official announcement of public hearings in the Washington State Register and posts information about proposed rules on its web site – [www.LNI.wa.gov](http://www.LNI.wa.gov). L&I reviews the written and oral testimony from the public hearing and revises the proposed rule as needed. The rule is officially adopted when L&I's director signs it and files it with the Code Reviser's Office.

## What is a variance?

If a worker safety rule requires you to use a method of protection that makes it impossible for you to operate your business, you may apply for a variance from that rule. You will need to fill out an application and describe how you will protect employees to the same degree the rule requires. Application forms are available at your local L&I office or online at [www.LNI.wa.gov/forms/pdf/414021af.pdf](http://www.LNI.wa.gov/forms/pdf/414021af.pdf).

## How can you stay informed if rules change?

Extensive information, including proposed changes to worker safety rules and upcoming public hearings, can be found on L&I's web site at [www.LNI.wa.gov/Safety/Rules/WhatsNew/](http://www.LNI.wa.gov/Safety/Rules/WhatsNew/). In addition, interested individuals can get updates by e-mail. Visit [www.LNI.wa.gov/Main/Listservs/SafetyStandards.asp](http://www.LNI.wa.gov/Main/Listservs/SafetyStandards.asp) to sign up for updates.



# *Info for Employers*

## **What are your responsibilities?**

The following list identifies some of the basic responsibilities employers have under the Washington Industrial Safety and Health Act. Additional requirements that address specific hazards and specific industries may also apply. The basic responsibilities are:

- Provide a safe and healthy workplace and comply with applicable rules. Visit [www.LNI.wa.gov/safety](http://www.LNI.wa.gov/safety) where you can review and/or print the rules. If you do not have access to the web, call 1-800-423-7233 (4BE-SAFE) to request assistance.
- Develop, maintain and implement a safety program that addresses the hazards specific to your business.
- Post the *Job Safety and Health Protection Poster* (F416-81-909), which explains employer responsibilities and employee rights. To receive a free poster, call your local L&I office or 1-800-423-7233 (4BE-SAFE). The poster is also available online at [www.LNI.wa.gov/IPUB/416-081-909.pdf](http://www.LNI.wa.gov/IPUB/416-081-909.pdf).
- Provide training to your employees about job safety and health.
- Involve employees in your safety program by either having a safety committee or holding monthly safety meetings, depending on the size of your business.
- Keep records of all work-related injuries and illnesses that meet the criteria specified by law.
- Report any fatality or an incident that causes two or more workers to be hospitalized. Contact the L&I office nearest you or 1-800-423-7233 within eight hours.

## **What are your rights?**

Employers' rights were summarized in the Compliance section of this pamphlet, Pages 6-10.



# Info for Workers

## What are your responsibilities?

By law, you must comply with the safety and health rules that apply to your workplace. They include:

- Read the *Job Safety and Health Protection Poster* (F416-081-909). Your employer is required to display this poster.
- Follow your employer's safety and health rules.
- Wear any personal protective equipment your employer requires.
- Report hazardous conditions to your safety committee, safety officer or supervisor.
- Report any on-the-job injury or illness immediately and get medical attention, if needed.
- Cooperate with WISHA inspectors.

## What are your rights under WISHA?

Every worker has the right to a safe and healthy workplace. If you know of hazards and have reported them to your employer, and he or she refuses to correct them, you may file a confidential WISHA complaint that will trigger an inspection of the workplace.

You have the right to:

- Bring job safety and health concerns to your employer's attention.
- Discuss safety and health matters with other workers.
- Participate in union activities concerning safety and health matters.
- Refuse a dangerous task, when certain conditions are met. (See Page 16.)
- File safety and health grievances.
- Participate in safety and health inspections with a WISHA inspector.

In addition, you have the right to:

- File a complaint about workplace safety or health hazards with the WISHA program, the federal Occupational Safety and Health Administration, your local health or fire department, or any other appropriate government agency.
- Testify before any panel, agency or court about job hazards.
- File a safety and health discrimination complaint and give evidence in connection with such complaints.

### **What constitutes discrimination?**

By law, your employer cannot take action against you for exercising your WISHA rights. If that happens, you may have been discriminated against. Discriminatory actions include:

- Dismissal.
- Demotion.
- Assignment to an undesirable job or shift.
- Loss of seniority.
- Reduction in pay or hours.
- Denial of a promotion you would otherwise have received.
- Denial of benefits earned, such as sick leave or vacation time.
- Harassment.
- Blacklisting with other employers.
- Taking away company housing.
- Damaging your credit at banks or credit unions.

### **What should you do if you believe your WISHA rights have been violated?**

Make a list of the facts. Do this while they are fresh in your mind. Record the names and addresses of the people involved and what happened. Also, note the names of any witnesses, when and where the incident happened, and anything else that may be significant. Keep any documents, letters or slips that relate to the incident.

Contact the Department of Labor and Industries, WISHA Services Division, in person, by letter, or by telephone **within 30 days** of the time you find out you've been discriminated against. You may file your complaint with the Assistant Director for WISHA Services, PO Box 44633, Olympia WA 98504-4633, or the Labor and Industries office nearest you. You may file the complaint yourself, or you may authorize a representative, such as your union, to do it for you.

WISHA discrimination complaint forms are available from local L&I offices (see Page 17).

## **Do you have the right to walk off the job to protest unsafe conditions?**

No! However, you can refuse to do a specific task if you reasonably believe that doing so would be dangerous to your life and/or health. But you need to stay on the job until the issue is resolved. If you walk off the job, WISHA may not be able to protect you.

Your right to refuse to do a task is protected if all of the following conditions are met:

- The refusal to work must be genuine. It cannot be a disguised attempt to harass your employer or disrupt business.
- A reasonable person (or most people) would agree that there is a real danger of death or serious injury if you were to perform the job.
- There isn't enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as the WISHA program.

When all three of these conditions are met, you should:

1. Ask your employer to correct the hazard;
2. Ask your employer for other work;
3. Tell your employer that you won't perform the work unless the hazard is corrected; and
4. Remain on the work site until ordered to leave by your employer.

# *Where You Can Go for Help*

For more information about worker safety, visit the L&I web site: [www.LNI.wa.gov/Safety/](http://www.LNI.wa.gov/Safety/). For person-to-person assistance, contact the L&I office nearest you. Please check the government or white pages of your telephone directory for these numbers.

Aberdeen	Kennewick	Seattle
Bellevue	Longview	Spokane
Bellingham	Moses Lake	Tacoma
Bremerton	Mount Vernon	Tukwila
Colville	Okanogan	Tumwater
East Wenatchee	Port Angeles	Vancouver
Everett	Pullman	Walla Walla
		Yakima

## *Postscript*

*During the week you read this, one, perhaps two, workers in Washington State will have perished – victims of preventable work-related injury or illness. In an annual Worker Memorial Day each April, we pause to remember workers who have died. We remember and mourn, and we rededicate ourselves to preventing future tragedies.*

*We hope for the year when we do not hold Worker Memorial Day because work claimed no lives that year.*

*Together, employers, workers and government can prevent work-related injuries and illness, and save lives.*

This document is available in other formats to accommodate persons with disabilities. For assistance, call 1-800-423-7233 (4BE-SAFE). (TDD users, please call 360-902-5697.)

Labor and Industries is an Equal Opportunity Employer.

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